



Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)	
)	
Numbering Resource Optimization)	CC Docket No. 99-200
Universal Service)	
)	
Implementation of the Local Competition)	CC Docket No. 96-98
Provisions of the Telecommunications Act of 1996)	
)	
Telephone Number Portability)	CC Docket No. 95-116

COMMENTS OF THE RURAL CELLULAR ASSOCIATION

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May 6, 2002

SUMMARY

The Commission should not amend its number portability and number pooling rules. Requiring all carriers serving the 100 largest MSAs to implement number portability prior to receipt of a specific request from another carrier would result in unnecessary expenditures and promote inefficient network deployment. It follows that amending Commission Rules to require non-porting carriers serving the 100 largest MSAs to participate in thousands block number pooling would also unnecessarily and unduly burden carriers.

If, however, the Commission were to require this premature deployment of the industry generally, it must exempt small and rural carriers from the new regulations. The record in this proceeding demonstrates that such requirements are unnecessary and extremely burdensome to small and rural carriers.

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COMMENTS OF THE RURAL CELLULAR ASSOCIATION

The Rural Cellular Association ("RCA"),¹ by counsel, hereby responds to the Commission's request for comment on a proposal to require all carriers within the 100 largest MSAs to implement number portability and participate in thousands block number pooling regardless of whether a carrier has received a specific request to provide number portability from another carrier.² Neither current circumstances nor public policy require the adoption of this proposed amendment. Accordingly, RCA submits that the proposal should be rejected.

¹ RCA is an association representing the interests of small and rural wireless licensees providing commercial services to subscribers throughout the nation. Its member companies provide service in more than 135 rural and small metropolitan markets where approximately 14.6 million people reside. Formed in 1993 initially to address the distinctive issues facing rural cellular service providers, the membership of RCA is concerned with advancing policies that foster the implementation of wireless services in the nation's rural and smaller market areas.

² Third Order on Reconsideration in CC Docket No. 99-200, Third Further Notice of Proposed Rulemaking in CC Docket No. 99-200, and Second Further Notice of Proposed Rulemaking in CC Docket No. 95-116, CC Docket Nos. 99-200, 96-98, 95-116 (rel. Mar. 14, 2002) ("Notice").

Requiring all carriers serving the 100 largest MSAs to implement number portability prior to receipt of a specific request from another carrier would result in unnecessary expenditures and promote inefficient network deployment. It follows that amending Commission Rules to require non-porting carriers serving the 100 largest MSAs to participate in thousands block number pooling would also unnecessarily and unduly burden carriers. Accordingly, the Commission should not amend its number portability and number pooling rules. If, however, the Commission were to require this premature deployment of the industry generally, it must exempt small and rural carriers from the new regulations. The record in this proceeding demonstrates that such requirements are unnecessary and extremely burdensome to small and rural carriers.

I. The Commission Must Retain its Well-Reasoned Policy that a Carrier is Not Obligated to Implement Number Portability or Thousands Block Number Pooling Until It Receives a Request to Port by Another Carrier

In fashioning its number portability rules, the Commission adopted the requirement that a carrier is not obligated to implement number portability until another carrier makes a request for the carrier to begin porting.³ The Commission reasoned that such a requirement would permit carriers to “target their resources where number portability is needed and avoid expenditures in areas within an MSA in which competitors are not currently interested.”⁴ Subsequently, in response to questions raised

³ *In the Matter of Telephone Number Portability: First Memorandum Opinion and Order on Reconsideration*, 12 FCC Rcd 7236, 7272 (1997) (“Order on Reconsideration”).

⁴ *Id.* The Commission also found that such a procedure will “foster efficient development, network planning, and testing, reduce costs, and lessen demands on software vendors.” *Id.*

within the context of its number pooling proceeding, the Commission reversed itself and declared that “[t]he limitation that carriers need to become LNP-capable only when they receive a request from a competing carrier only applies outside of the largest 100 MSAs.”⁵

After reversing this “clarification,” the Commission now proposes, through the appropriate procedural route, to amend its number portability and number pooling rules. Adoption of the proposed amendment would, however, result in the Commission’s abandonment of a well-reasoned policy based upon sound analysis of fact.

A. A Change in Number Portability Rules is Not Warranted

The Commission suggests that competitive opportunities will be improved by eliminating the requirement that a request from another carrier is necessary before a carrier is obligated to implement number portability.⁶ The underlying presumption of this analysis - - that capability to port will result in porting - - ignores the cost/benefit analysis that proceeds rational market-based decision-making. As the Commission previously found, competitors will target their resources and port numbers only in

⁵ *In the Matter of Numbering Resource Optimization: Third Report and Order and Second Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200*, FCC 01-362, para. 125 (rel. Dec. 28, 2001) (“Third Report and Order”).

⁶ Notice at para. 7. The Commission references its previous finding that number portability “contributes to the development of competition among alternative providers by, among other things, allowing customers to respond to price and service changes without changing their telephone numbers.” *Id.*

markets where they are “currently interested” and avoid the costs of porting in markets where they determine that it is not needed.⁷

The only benefit to the consumer under the amended rule would be that the initiation of porting would begin marginally sooner, since the required infrastructure upgrade would have been made. This benefit, however, is outweighed by the inefficiencies that would be created by the amended rule, which would require carriers that may never have to port numbers to make expensive upgrades. Accordingly, the Commission should avoid mandating inefficiencies in network development by maintaining the status quo.

B. Number Pooling Requirements Must Follow Porting Requirements

In its number pooling proceeding, the Commission determined that carriers are not required to participate in thousands block number pooling unless and until they are capable of porting.⁸ In its Notice, the Commission tentatively concluded that this rule should be amended to require carriers within the 100 largest MSAs to participate in pooling regardless of whether they are capable of providing number portability.⁹

⁷ Order on Reconsideration, 12 FCC Rcd at 7272. As demonstrated in the record, the costs for CMRS carriers to port numbers are extremely high. *See, e.g.*, Reply Comments of RCA in WT Docket No. 01-184, filed October 22, 2001 at 2 –3 (citing Sprint PCS’s estimates that it spend a minimum of \$50 million annually to operate number portability and Cingular’s estimate that it will spend in excess of over \$250 million over the next five years for implementation of number portability as well as additional payments to NeuStar on a per-port basis that could total tens of millions more).

⁸ *See In the Matter of Numbering Resource Optimization: Report and Order and Further Notice of Proposed Rulemaking*, CC Docket No. 99-200 at para. 125 (rel. March 31, 2000).

⁹ Notice at para. 9.

In reaching this tentative conclusion, the Commission references “representations” made by CMRS carriers that the underlying local routing number (“LRN”) architecture is necessary for pooling but full number portability-capability is not necessary.¹⁰ It appears in making this reference, the Commission erroneously has determined that the burdens associated with the implementation of the LRN architecture may not be as great as once thought. This is not the case. As evidenced in the record, some carriers will be forced to incur huge expenses for software upgrades to implement the LRN architecture, as they do not possess the required level of software in their switches.¹¹ To require non-porting carriers within the 100 largest MSAs to incur costly software upgrades in order to participate in number pooling would unnecessarily and unduly burden these carriers. Accordingly, the Commission should continue to require only number portable-capable carriers to participate in number pooling.

II. If the Commission Decides to Amend its Rules, Small and Rural Carriers Must Be Exempted From the New Requirements

If the Commission decides to amend its rules to require carriers within the 100 largest MSAs to implement number portability and pooling regardless of whether they have received a request from another carrier, small and rural carriers should be exempt from such rules.

The Commission has previously determined that requiring small carriers to implement number portability without a specific request is extremely burdensome. In its

¹⁰ *Id. citing Verizon Wireless’ Petition for forbearance from the CMRS number portability requirements filed July 26, 2001 (“Verizon Wireless Petition”).*

¹¹ *See, e.g., Reply Comments of RCA in CC Docket No. 01-184, filed October 22, 2001 at 4 .*

Order on Reconsideration, the Commission found that requiring all carriers within an MSA to port regardless of whether a request was issued would cause small carriers to upgrade their networks at significant expense¹² with no resulting competitive benefit. Additional burdens to both carriers and the Commission would arise in the form of waiver requests.¹³ Accordingly, to prevent unnecessary and burdensome expenditures by small carriers, the Commission must exempt small carriers if it decides to amend its number portability rules to eliminate the requirement that a carrier is not obligated to implement number portability until it receives a request from another carrier.

In its Third Report and Order in its number pooling proceeding, the Commission found that the per line cost to establish pooling capability would be significantly higher for small and rural carriers due to the carriers' limited customer bases.¹⁴ As the Commission stated, "[w]eighed against the limited number optimization benefits of requiring these carriers' participation in pooling, these costs appear to be unreasonably high."¹⁵ This observation, made in the context of geographic areas outside of the 100 largest MSAs, applies equally to small carriers within the 100 largest MSAs, including some RCA members in that they, too, have limited subscriber bases and are rural carriers that serve only small portions of an MSA. Accordingly, they should be treated the same as carriers outside of the 100 largest MSAs and be exempt from any new pooling requirements.

¹² Order on Reconsideration, 12 FCC Rcd at 7272.

¹³ *Id.* at n.207.

¹⁴ Third Report and Order, FCC 01-362 at para. 20.

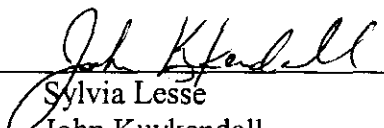
¹⁵ *Id.*

III. Conclusion

Amendment of the number portability and number pooling rules is unsupported and should be rejected. At a minimum, the record in this proceeding demonstrates that such requirements are unnecessary and extremely burdensome to small and rural carriers.

Respectfully submitted,

RURAL CELLULAR ASSOCIATION

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CERTIFICATE OF SERVICE

I, Naomi Adams, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, do hereby certify that a copy of the foregoing "Comments of the Rural Cellular Association" was served on this 6th day of May 2002, via hand delivery to the following parties:


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